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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------|-------------|----------------------|---------------------|------------------|
| 10/605,981 | 11/11/2003 | Hagen Klausmann | 12406-095002 | 2980 |
| 26181 | 7590 | 10/09/2007 | EXAMINER | |
| FISH & RICHARDSON P.C. | | | RHEE, JANE J | |
| PO BOX 1022 | | | ART UNIT | |
| MINNEAPOLIS, MN 55440-1022 | | | PAPER NUMBER | |
| | | | 1795 | |
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| | | | 10/09/2007 | |
| | | | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/605,981 | | KLAUSMANN ET AL. | |
| | Examiner | | Art Unit | |
| | Jane Rhee | | 1745 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Rejections Repeated

1. The 35 U.S.C. double patenting rejection over U.S. Patent 6887733 in view of Brown has been repeated for the reasons previously made in office action 2/6/2006.
2. The 35 U.S.C. 102/103(a) rejection of claims 1-31,33 anticipated by or obvious over Brown has been repeated for the reasons previously made in office action 2/6/2006.
3. The 35 U.S.C. 103(a) rejection of claims 32 obvious over Brown in view of applicant's admitted prior art has been repeated for the reasons previously made in office action 2/6/2006.
4. The 35 U.S.C. 112 1st paragraph rejection of claims 36,39 has been repeated for the reasons previously made in office action 8/9/2006.
5. The 35 U.S.C. 103(a) rejection of claims 34-39 unpatentable over Brown in view of Tyan has been repeated for the reasons previously made in office action 8/9/2006.

New Rejection

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 40-42 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brown et al. (20030197197).

As to claim 40, Brown et al. discloses wherein the active region (figure 4 number 116) and the bonding region (figure 4 number 130) are formed in separate regions of the substrate (figure 4 number 110).

As to claim 41, Brown et al. discloses wherein the bonding region is formed surrounding the active region (figure 4 number 130).

As to claim 42, Brown et al. discloses wherein a cavity is provided between the active region and the cap (figure 4 cap is 120 active region is 116).

Response to Arguments

7. Applicant's arguments filed 6/25/2007 have been fully considered but they are not persuasive.

In response to applicant's argument that Brown fails to disclose a getter layer in direct contact with the upper electrode of an active component where the getter layer consists essentially of an alkaline earth metal, Brown teaches a getter layer in direct contact with the upper electrode of an active component (figure 4 number 130) where the getter layer consist essentially of an alkaline earth metal (page 5 paragraph 0071). The getter layer mixed with an adhesive does read on "consist of essentially of", "consist essentially of" can comprise other elements as long as it does not affect the properties of primary element.

In response to applicant's argument that Brown fail to disclose that the protective layer be formed in proximity of the electronic circuitry much less that the protective layer prevents shorting of conducting lines, applicant claims that the protective layer is located in the bonding region and be formed in proximity of the electronic circuitry. Brown teaches that the protective layer is located in the bonding region (page 4 paragraph 0066). As to the protective layer preventing shorting of the conducting lines, is an intended use and a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

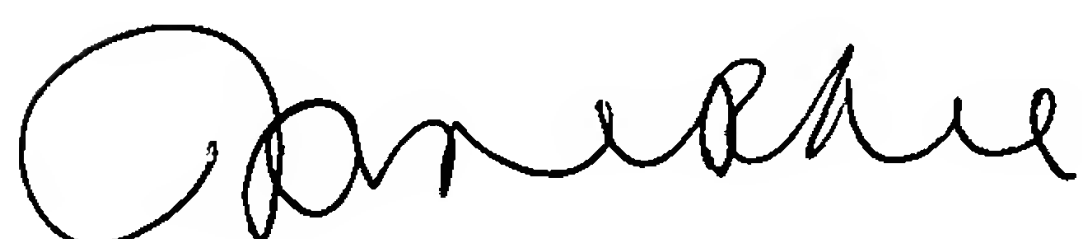
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Jane Rhee", with a large, stylized initial "J" and "R".

Jane Rhee
September 20, 2007